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SENATE BILL 734 By
Kyle

HOUSE BILL 1353
By Williams (Wil)

AN ACT to amend Tennessee Code Annotated, Title 47, Chapter 18, relative to consumer protection.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, Part 1, is amended by adding a new section thereto, as follows:

Section _____. (a) As used in this section, unless the context otherwise requires:

(1) "Liquidated damages" means the value of any contract for the sale or lease of any telecommunication device or telecommunication service at the time such unfair or deceptive act or practice took place in regard to such telecommunication device or telecommunication service;

(2) "Telecommunication device" means any type of cellular or wireless telephone, instrument, device, machine or equipment that is capable of transmitting or receiving telephonic, electronic or radio communications more than one hundred feet (100') from its home base; and

(3) "Telecommunication service" means any service provided for a charge or compensation to facilitate the origination, transmission, emission or reception of signs, signals, data, writings, images, sounds or intelligence of any nature of telephone, including cellular or other wireless telephones, wire, radio, electromagnetic, photoelectronic or photo-optical system.

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(b) This section applies to any person engaged in trade or commerce, directly or indirectly, by any means, including, but limited to, by mail, by telephone, by advertisement, or in person, who offers to a consumer or other person, the sale or lease of a telecommunication device or telecommunication service.

(c) In addition to and without limiting the prohibitions contained in § 47-18-104, the following unfair or deceptive acts or practices are declared unlawful and in violation of this part:

(1) The sale or lease of any telecommunication device without a separate written contract for such telecommunication device which clearly and conspicuously discloses the restrictions, qualifications, or other conditions pertaining to the use of such telecommunication device. If the ownership of such telecommunication device is not being transferred, notice of such retention of ownership shall be disclosed. All fees and expenses pertaining to the activation and use of such telecommunication device shall also be disclosed; or

(2) The sale or lease of any telecommunication service without a separate written contract for such service which clearly and conspicuously discloses the restrictions, qualifications, or other conditions pertaining to the use of such telecommunication service. All fees, expenses and duration of such contract shall also be clearly and conspicuously disclosed.

(d) Notwithstanding the provisions of § 47-18-109(a)(3), if a court of competent jurisdiction finds that the use or employment of the unfair or deceptive act or practice was a willful or knowing violation of this section, the court may award three (3) times the liquidated damages incurred.

SECTION 2. This act shall take effect July 1, 1997, the public welfare requiring it.